

REMARKS/ARGUMENTS

Claims 1-36 are pending in this application. Claims 1-13 and 30-36 have been withdrawn from consideration as a result of a previous restriction requirement. Claims 14-29 have been presented for examination, and stand rejected. Claims 14-19, 21-23, and 28-29 have been rejected under 35 U.S.C. § 102(e) as being anticipated by Lambert (U.S. Patent No. 6,629,138). Claim 20 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over Lambert in view of Dievendorff (U.S. Patent No. 6,425,017). Claims 24-27 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Lambert in view of Downs (U.S. Patent No. 6,226,618). For the reasons set forth below, applicants respectfully disagree with, and traverse, the grounds for rejection.

Independent Claims 14 and 21

Of the elected claims (14-29), only claims 14 and 21 are independent. Claims 14 and 21 have both been rejected under section 102(e) as being anticipated by Lambert. Lambert, however, differs significantly from the inventions recited in claims 14 and 21, and does not teach or suggest the features of those claims.

Lambert is directed to the problem of pre-fetching content from the Internet. As noted in Lambert, conventional use of the Internet operates on a "pull" model, where a user is responsible for searching for, and downloading, information. (Col. 1, ll. 63-66.) The problem with this model, according to Lambert, is that

The server [from which content is downloaded] is inherently passive and the client does all the work of initiating requests. If the

server has new information of interest to the client, the server has no method of delivering either the information or a notification to the client that the information exists.

Lambert, col. 2, ll. 14-19. In other words, the problem that Lambert addresses is that the user may have no way of knowing whether Internet content has changed, and thus will continue to manually request the same content repeatedly from remote servers. Lambert addresses these problems by providing a system that includes a caching server and a back-end server. (See FIGS. 2-3; col. 5, l. 25 through col. 7, l. 46.)

Lambert's back-end server is "a collection of software that works with client caching servers to optimize use of a publisher's site by its subscribers." (Col. 7, ll. 15-17.) The back-end server maintains various types of data that is used by the caching server both for the retrieval of content, and for bookkeeping functions relating to the retrieval of content. (See col. 7, ll. 20-46.) It should be noted that Lambert's back-end server *does not actually store the content*; rather, the back-end servers store information relating to the retrieval of content, where the retrieved content is ultimately stored in caches controlled by the caching servers.

The caching servers are software that is implemented as "a standard HTTP proxy server." (See col. 5, l. 60 through col. 6, l. 1.) As can be seen in FIG. 3 of Lambert, the caching server stores content in a cache, and later retrieves the content from the cache. As can also be seen in FIG. 3, the cache itself is distinct from the caching server; content is not actually stored in the caching server, but rather in the cache.

Independent claim 14 of the present application recites a plurality of download servers, each of which has a cache, and a fulfillment server that has a content store. Both the download servers' caches, and the fulfillment server's content store, store a particular "content item." The

fulfillment server issues a "first message" to the download servers, which cause the download servers to invalidate the content item that is stored in the download servers' respective caches. With regard to claim 14's fulfillment server, the Examiner has cited Lambert's discussion of a back-end server (i.e., col. 7, ll. 12-46) as teaching the claimed fulfillment server. With regard to the download servers, the Examiner has merely cited "Figures 2-3," so it is unclear what component of Figures 2-3 the Examiner believes corresponds to the download servers. However, in discussing the specific elements of a download server, the Examiner has cited the portions of Lambert that relate to the caching server (i.e., col. 5, ll. 45-67), so it appears that the Examiner regards the caching server as being analogous to the download servers.

It can be seen from the above discussion, however, that Lambert's caching server and back-end server are not the same as the claimed download servers and fulfillment servers. The download server has a cache that stores a content item, and the fulfillment server has a content store that stores the same content item. By contrast, Lambert's "caching server" does not include anyplace to store the content item, but rather (as shown in FIG. 3) merely stores and retrieves information from a "cache." The cache, however, is a separate component from the caching server. Since the caching server does not have a place to store the content item, as called for by claim 14, Lambert's caching server does not correspond to the claimed download server.

Moreover, Lambert's back-end server has no structure that corresponds to the claimed "content store," since the back-end server does not store any content. As described above, Lambert's back-end server is merely a collection of software that helps the caching servers to retrieve content from the Internet. However, the back-end server does not store the content, and

this inability to store content represents a fundamental difference between Lambert's back-end server and the claimed fulfillment server.

Thus, the Examiner has not demonstrated that Lambert's caching server and back-end server correspond to the download server and fulfillment server recited in claim 1. Moreover, there is no other portion of Lambert, or of any other prior art cited, that teaches or suggests the structure recited in claim 1.

Regarding independent claim 21, the Examiner has stated that this claim is rejected "for similar reasons" as those stated for claim 14. Claim 14 is structurally different from claim 21, and the Examiner has not explained how claim 21 can be read onto Lambert. Applicants are entitled to an explanation as to how the Examiner proposes to read each claim on the prior art. See MPEP 707.07(d). Since the Examiner has not explained what portions of Lambert correspond to the claimed invention, the Examiner has not provided any such explanation. However, applicants note that claim 21 refers to a "plurality of servers [that] distribute content" and a "fulfillment server." Thus, for the reasons discussed above in connection with claim 14, applicants submit that claim 21 is not anticipated by Lambert.

If the Examiner determines, in the next Office Action, to maintain the rejection of claim 21 and provides a new, element-by-element explanation of the rejection at that time, then applicants request that the next Office Action be made non-final so that applicants can have an opportunity to respond to any new arguments raised by the Examiner.

Claims 25 and 26

With regard to dependent claims 25 and 26, the Examiner has rejected these claims under section 103(a) over Lambert in view of Downs. In essence, the Examiner cites Downs for its alleged teachings of features relating to cryptography, and asserts that adding Downs' cryptography to Lambert's teachings is appropriate because "it would accomplish to [sic] validating and securing the download of the digital content between the consumers or distributors and publishers or business partners," and because "it would provide for secure and protected digital content as well as preventing hacker code from divulging the content." (See Office Action, pp. 6-7, ¶¶ 20-21.) Applicants respectfully submit that the Examiner has not demonstrated an appropriate reason to combine these references.

In order to maintain an obviousness rejection over a combination of references, the Examiner must demonstrate that there is a motivation to combine the first reference with the second. See MPEP 706.02(j). However, in this case there is no suggestion in Lambert that there would be any need to "validat[e] and secur[e] the download of the digital content," or to "provide for secure and protected digital content," or to "prevent[] hacker code from divulging the content." Thus, the Examiner's argument does not demonstrate any real motivation to add the teachings of Downs to Lambert's system.

An obviousness rejection requires more than citing some desirable feature in one reference and asserting that it would be desirable to add this feature to the other reference. If this were a legitimate line of argument, then an obviousness rejection could be maintained by combining any reference in the with any other reference. However, the law requires that there be

some *motivation* to combine the references. In this case, the Examiner has only demonstrated – at best – that Downs teaches some desirable features, but has not demonstrated why one who reads Lambert would be motivated to add these features to Lambert’s teachings.

Thus, applicants respectfully submit that the obviousness rejection of claims 25 and 26 is improper, and should be withdrawn.

Restriction Requirement

The Examiner is correct in stating that applicants have elected claims 14-29 without traverse, and agreed to have claims 1-13 and 30-36 withdrawn from consideration, without prejudice. However, applicants disagree with Examiner’s characterization that there is “no allowable generic or linking claim.” Applicants made the election without traverse in the interest of simplifying and advancing prosecution of this case; in doing so, applicants did not intend to characterize the non-elected claims in any particular way. The nature of the non-elected claims, and their relationship to the elected claims, speaks for itself and is not susceptible to characterizations about the presence or absence of generic or linking claims.

Drawings

The Examiner has not indicated that the formal drawings filed with this application have been accepted. Applicants request that the Examiner indicate in the next office action that the formal drawings are acceptable.

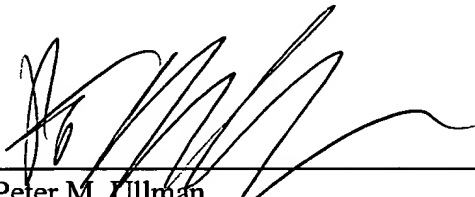
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Conclusion

For the foregoing reasons, claims 14, 21, 25, and 26 have been shown to be patentable over the prior art of record. Moreover, claims 15-20, 22-24, and 27-29 are dependent – either directly or indirectly – on the claims that have been shown to be patentable, and these dependent claims are patentable at least by reason of their dependency. Thus, applicants respectfully submit that all pending, non-withdrawn claims are patentable, that all grounds for rejection have been addressed, and that this case is now in condition for allowance.

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